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FISCAL IMPACT STATEMENT

LS 6746 | **NOTE PREPARED:** Jan 11, 2009
BILL NUMBER: SB 455 | **BILL AMENDED:**

SUBJECT: Continuing Care Agreements.

FIRST AUTHOR: Sen. Miller | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: GENERAL | **IMPACT:** State
X DEDICATED
FEDERAL

Summary of Legislation: This bill revises the definition of "continuing care agreement" to mean agreements requiring the payment of an entrance fee of at least $25,000. It adds a definition of "continuing care retirement community"(CCRC). It also revises the definition of "provider" in the continuing care law to mean a person that agrees to provide continuing care under a continuing care agreement to at least 25% of the individuals living in a facility owned or operated by the provider.

The bill eliminates payments to the Indiana Retirement Home Guaranty Fund after June 30, 2009.

Effective Date: January 1, 2009 (retroactive); July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Guaranty Association Fund Fee:* The bill would discontinue the collection of the Guaranty Association Fund Fee after June 30, 2009. The $100 fee is currently levied on each contracting party that enters into a continuing care agreement. Fee revenue is deposited into the Indiana Retirement Home Guaranty Trust Fund that was established to protect the financial interests of residents and contracting parties in the event of the bankruptcy of the provider. The Fund is administered by a volunteer board of directors. The expenses of the nonreverting fund are paid from the fund. The Fund held assets of $3,776,834 on January 7, 2009.

Continuing Care Agreements: The bill revises the definitions concerning CCRCs and agreements to specify that at least 25% of the individuals living in a continuing care facility have a continuing care agreement with the provider. Continuing care agreements are required to have an entrance fee of at least $25,000 plus periodic charges, and the term of the agreement is to be for the life of the individual. The bill could potentially result in a small decrease in the fee revenue that is paid to the Securities Division of the Secretary of States' Office by reducing the number of facilities that would meet the CCRC definition.

CCRC Application and Disclosure Fees: The current law requires that an application fee of $250 accompany an application for registration with the Secretary's office. Each subsequent year, the registered CCRCs are required to file an annual financial disclosure statement as well as amendments to the disclosure statement on file necessary to reflect significant changes to the disclosure facts, such as a sale or other specified information. The disclosure statements are required to be accompanied by a $100 filing fee. The Securities Division of the Secretary of State's Office collected $7,450 and $8,500 in CCRC fees for FY 2007 and FY 2008, respectively. CCRC Fees are distributed to the General Fund.

The securities Division reported that there were 59 CCRCs registered at the end of CY 2007, and 71 CCRCs registered as of December 9, 2008. One additional application was reported as pending.

Quality Assessment Fee: The Quality Assessment Fee (QAF) collected from nursing facilities is used to pay the state's share of Medicaid program costs. Eighty percent of the fee is used for nursing facility reimbursement, and the remaining 20% is returned to the General Fund. The total QAF is estimated to generate approximately $100 M annually. Nursing Facilities that are part of a CCRC are exempt from the QAF. By specifying a more stringent definition for CCRCs the bill may prevent nursing facilities that would meet the current broader definition from registering as CCRCs to avoid paying the QAF. The extent of any impact associated would be dependent on the size and utilization of any facilities that might register as a CCRC to avoid paying the QAF.

Background Quality Assessment Fee: In the current model approved by CMS, the amount of the Quality Assessment Fee is based on a nursing facility's total annual patient days. Quality assessments of $10 per non-Medicare patient day are to be collected from nursing facilities with total annual patient days of less than 70,000 days. Facilities with annual patient days equal to or greater than 70,000 days will be assessed $2.50 per non-Medicare day. Local government-owned nursing facilities will be assessed $2.50 per non-Medicare patient day as well. Nursing facilities that are continuing care retirement communities, hospital-based, or owned by the state are exempt from the QAF.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State; Office of Medicaid Policy and Planning, Family and Social Services Administration.

Local Agencies Affected:

Information Sources: Secretary of State's Office, Auditor's Data, General Ledger Trial Balance as of January 7, 2009.

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